



***Town of Tyngsborough  
Planning Board***  
25 Bryants Lane,  
Tyngsborough, Massachusetts 01879-1003  
Office: (978) 649-2300 ext 115

Tyngsborough Planning Board Meeting Minutes April 19, 2007

Attachments: 1-Meeting Agenda **Approved**  
Members Present:

Caryn DeCarteret, Chairman  
Steve Nocco, Treasurer  
John Forti, Secretary  
Joyce M. Harrington (Clerk)  
Jesse Johnson (Consulting Engineer)

Members Absent: Darryl Wickens, Vice Chairman

To take action on agenda items (see attached agenda) and any other business brought before the Board.

7:00PM Meeting called to order by Chairman C.DeCarteret

Administrative: Road Acceptance for Dabilis Estates.

Motion: S.Nocco to recommend Dabilis Avenue for the Spring Town Meeting.

Second: J.Forti

**Motion Carries:** 3-Yes, 1 Absent

7:05PM Temporary Independent Living Quarters 14 Baystate Road Doreen St.John presented by Matt Hamor of Polaris Engineering Corporation.

The applicant handed over the Deed to Chairman, Decarteret. The Board reviewed Building Commissioner letter dated April 18, 2007 stating the "Spare Room" as drawn on basement plan would be considered a bedroom and must conform to 780 CMR Massachusetts State Building Code-6<sup>th</sup> Edition. Matt Hamor will address this issue with Mark Dupell next week. The Board requested a letter for the file. The Board reviewed the open items with Mr.Hamor.

1. The plans should show the existing and proposed parking, as required by section 4.15.21(2). Plans should be stamped by a registered engineer or architect unless waived by the Board.  
*Will supply.*
2. The applicant should provide proof of ownership, a copy of the deed, as required by section 4.15.21(4).  
*The applicant did supply the deed as requested.*
3. The applicant indicates that the proposed TILQ is 588 sq. ft. with existing living quarters totaling 2,912 sq. ft. These numbers can not be verified with the information given. The submitted plan does not indicate a scale. Additionally, it appears that existing stairwells and hallways on the 1<sup>st</sup> floor, 2<sup>nd</sup> floor, and attic were used in the calculation of existing living space but were omitted from the basement (TILQ) living space.  
*Mr. Hamor will revise the plans.*

4. The TILQ is separated from the house by a stairwell. The applicant has not demonstrated compliance with Section 4.15.21(8).
5. The Board may wish to see a draft of the deed restriction prior to close of the hearing.
6. The applicant should indicate how the TILQ will comply with Section 4.15.21.(9). It appears that an independent exit directly to the outside, associated with the TILQ, exists.
7. The applicant indicates that recreation space totaling 672 sq. ft. exists in the attic. This is unusual and should be explained further.
8. The existing sewage disposal (on-site or town sewer) should be indicated. If it is on-site septic, then this development will likely require an upgrade of the system. There does not appear to be adequate room (4,900 sq. ft. lot) for an upgrade. Chairman, requested a letter from the applicant.

Chairman DeCarteret informed the applicant that the Board may have difficulty in approving the application due to non compliance with Section 4.15.30, subsection 8 of the Tyngsborough Zoning ByLaw. C.DeCarteret suggested that the applicant read through the ByLaw carefully so that if possible compliance can be achieved. Mr Hamor informed the Board that in the letter from Commissioner Dupell this issue was not listed, so in his mind it was a non-issue. The Board suggested that the applicant again read through the ByLaw and if there are any further questions, to speak with Commissioner Dupell regarding the requirements in 4.15.30.

Motion: J.Forti to continue the hearing to May 3<sup>rd</sup> @ 7:05PM

Second: S.Nocco

**Motion Carries**

#### 7:35PM Special Permit 77 Middlesex Road Spa/Salon Sandra Ivos

The Board reviewed the open items.

1. The plan (DWG 1 of 2) included in the application package does not show adequate detail in order to determine the adequacy of the site for the proposed use (hair salon). A plan should be submitted that details the proposed parking and access. An existing residential (4-family) building will be sharing the existing access and parking areas with the proposed commercial use. Handicap accessibility must also be provided.
2. If there is a proposed increase in impervious surface, existing and proposed drainage analyses should be provided.
3. The applicant will be required to comply with the Town Sign Bylaw and the Town Lighting Bylaw.
4. The Board may wish to consult with the Fire Chief as to the adequacy of the site access for emergency vehicles.
5. Traffic circulation patterns should be indicated given that two driveway entrances exist at less than 150 feet apart and will be used for residential and commercial buildings on one site.
6. DWG 2 of 2 should be withdrawn from the formal special permit application. This drawing indicates proposed work beyond the scope verbally indicated.

The applicant resubmitted the original plan with a surveyor's stamp, but other changes or improvements to the plan were made. The Board explained the need for a professionally prepared plan to be reviewed by the Board. The Board then advised the applicant to have the plan redrawn by a surveyor or engineer and resubmit at the following meeting.

Motion: J.Forti to continue the hearing to May 3<sup>rd</sup> @ 7:35PM

Second: S.Nocco

**Motion Carries**

8:05PM Warrant Article Zoning By-Law Article 2.15.11 Nonconforming lots section 2.15.10

The proposed warrant article from a citizen's petition regarding an amendment to the Tyngsborough Zoning By-Law. To see if the Town will vote to change the Tyngsborough Zoning by Law Article 2.15.11: Nonconforming Lots section 2.15.10. Paragraph # 2 as follows:

The lot had at least 5,000 square feet of area and 50 feet of frontage at the time the boundaries of the lot were defined: and

*Notwithstanding the above, the separate ownership requirements identified in Paragraph 1. Which reads "such lot was held, and has continued to be held, in ownership separate from the of adjoining land" and the requirement of 50 feet of frontage identified in Paragraph 2., shall not be applicable to any lot shown on any plan recorded with the Middlesex North Registry of Deeds Books before May 20, 1955, which lot abuts a lake or waterway, which has not been built upon and which has been held continuously by an individual or by a trust controlled by said individual, on or before the adoption of the Tyngsborough Zoning Bylaw, May 20, 1955;*

Motion: J.Forti to close the Public Portion of the Hearing

Second: S.Nocco

**Motion Carries**

Motion: J.Forti: to recommend the citizens petition to Spring Town Meeting with the following change: to require a minimum of 30 feet of frontage, instead of the 50 feet of frontage identified in Paragraph 2.

Second: S.Nocco

**Motion Carries 3-Yes, 1-Absent**

8:35PM Warrant Article 7 Cummings Road in the R-1 Residential Zone to B-3 Business

Notice is hereby given that the Tyngsborough Planning Board will hold a Public Hearing on April 19 ,2007 at 8:35PM at Town Hall, 25 Bryants Lane in the Community Room for the proposed warrant article from a citizen's petition regarding an amendment to the Tyngsborough Zoning By-Law. To see if the Town will vote to rezone a parcel of land currently in the R-1 Residential Zone to B3 Business, in its entirety, described as follows:

7 Cummings Road Map13, Block 10, Lot 0.

Beginning at corner in the wall at land now or formerly of John P. Upton and on the Westerly side of a cross road leading Southerly from the residence now or formerly of Arthur R. Marshall.

Northerly by the Westerly side of said road about two hundred and fifteen (215) feet to a bound by the side of a brook. By approximate true meridian courses and by other land now or formerly owned by said Arthur R. Marshall, south 52 degrees 24 minutes west one hundred and forty-two (142) feet to a bound near a brook, and south 1 degree 13 minutes west one hundred five (105) feet to a wall at land of Upton aforesaid:

Easterly by said wall one hundred and ninety-one (191) feet to the point of beginning. Containing twenty-five thousand square feet, be the same more or less.

*No representation for this warrant article was present at the meeting and without explanation or information and because the Board saw the change as spot zoning, the Board felt that the change was not in the best interest of the Town.*

Motion: J.Forti to close the Public Portion of the Hearing

Second: S.Nocco

**Motion Carries**

Motion J.Forti: To recommend the citizens petition to change zoning for 7 Cumming Road from R-1 to B-3 to Spring Town Meeting.

Second: S.Nocco

**Motion DOES NOT Carry:** 0-Yes, **3 NO**, 1-Absent

Administrative 1 Walter Erksen Special Permit application 30 Progress Ave – New England Transit.

Mr. Eriksen did not appear before the Board.

Administrative 2 TJ Maxx Plaza continue subdivision review Peter Nicosia

Mr. Nicosia filed for a DSD Plan

The Definitive Subdivision Hearing is scheduled for May 17, @ 7:35 PM

Administrative 3 Approval of Minutes

The Board did not approve any Minutes

Administrative 4 Bills

The following bills were signed:

David E. Ross and Associates

Administrative 5 Tyngs Crossing 28 Farwell Road Sign Form I Lot Release.

The Board signed the Form I releasing Lots 1 through 4.

Lot 5 will be released upon satisfactory legal review of the covenant covering the landscaping.

**Motion: S.Nocco** to adjourn at 9:00PM

**Second: J.Forti**

**Motion Carries**

Minutes taken and respectfully submitted by

Joyce Harrington, Clerk